



January 18, 2006

## HOUSE BILL No. 1156

DIGEST OF HB 1156 (Updated January 11, 2006 2:59 pm - DI 69)

**Citations Affected:** IC 6-1.1; IC 33-28; IC 33-33; noncode.

**Synopsis:** Various provisions concerning courts. Limits the amount of an excessive property tax levy for new court operating expenses to the estimate by the taxing unit operating the court of the court's expenses for its first year of operation. Lists the costs that qualify for the excessive levy. Requires jury commissioners to use only lists approved by the supreme court to determine the names of prospective jurors to be included in a jury pool. Removes provisions that allow the commissioners to select names from various other sources. Repeals definitions of "voter registration lists". Adds a second judge to the Jackson superior court beginning January 1, 2007. (The introduced version of this bill was prepared by the commission on courts.)

**Effective:** Upon passage; July 1, 2006.

**Richardson**

January 5, 2006, read first time and referred to Committee on Courts and Criminal Code.  
January 17, 2006, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to House Rule 127.

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HB 1156—LS 6603/DI 69+



January 18, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## HOUSE BILL No. 1156

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A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-1.1-18.5-13, AS AMENDED BY P.L.73-2005,  
2       SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       UPON PASSAGE]: Sec. 13. With respect to an appeal filed under  
4       section 12 of this chapter, the local government tax control board may  
5       recommend that a civil taxing unit receive any one (1) or more of the  
6       following types of relief:

7               (1) Permission to the civil taxing unit to increase its levy in excess  
8               of the limitations established under section 3 of this chapter, if in  
9               the judgment of the local government tax control board the  
10              increase is reasonably necessary due to increased costs of the civil  
11              taxing unit resulting from annexation, consolidation, or other  
12              extensions of governmental services by the civil taxing unit to  
13              additional geographic areas or persons.

14              (2) Permission to the civil taxing unit to increase its levy in excess  
15              of the limitations established under section 3 of this chapter, if the  
16              local government tax control board finds that the civil taxing unit  
17              needs the increase to meet the civil taxing unit's share of the costs

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of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's **estimate of the unit's** share of the costs of operating a court for the first full calendar year in which it is in existence. **For purposes of this subdivision, costs of operating a court include:**

**(A) the cost of personal services (including fringe benefits);**

**(B) the cost of supplies; and**

**(C) any other cost directly related to the operation of the court.**

(3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the quotient determined under STEP SIX of the following formula is equal to or greater than one and three-hundredths (1.03):

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year, divided by the sum of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the total assessed value of all taxable property in all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular

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calendar year, divided by the sum of the total assessed value of all taxable property in all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year immediately preceding the particular calendar year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Divide the STEP THREE amount by the STEP FIVE amount.

The civil taxing unit may increase its levy by a percentage not greater than the percentage by which the STEP THREE amount exceeds the percentage by which the civil taxing unit may increase its levy under section 3 of this chapter based on the assessed value growth quotient determined under section 2 of this chapter.

(4) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars (\$10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a volunteer fire department in the budget of the civil taxing unit for the immediately preceding calendar year; plus

(ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department under this chapter; minus

(iii) the amount of money borrowed under IC 36-6-6-14 during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

(5) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions

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the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth (1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

(6) Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's township assistance ad valorem property tax rate is less than one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing township assistance under IC 12-20 and IC 12-30-4. The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's township assistance ad valorem property tax rate of one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars (\$100) of assessed valuation before the increase.

(7) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this

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subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent (\$0.01) per one hundred dollars (\$100) of assessed valuation.

(8) Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);

(ii) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000);

(iii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

(iv) a city having a population of more than fifteen thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600); or

(v) a city having a population of more than seven thousand (7,000) but less than seven thousand three hundred (7,300); and

(B) the increase is necessary to provide funding to undertake removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents (\$0.0667) for each one hundred dollars (\$100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(9) Permission for a county:

(A) having a population of more than eighty thousand (80,000) but less than ninety thousand (90,000) to increase the county's

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levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991;

(B) that operates a county jail or juvenile detention center that is subject to an order that:

(i) was issued by a federal district court; and

(ii) has not been terminated;

(C) that operates a county jail that fails to meet:

(i) American Correctional Association Jail Construction Standards; and

(ii) Indiana jail operation standards adopted by the department of correction; or

(D) that operates a juvenile detention center that fails to meet standards equivalent to the standards described in clause (C) for the operation of juvenile detention centers.

Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or a juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or a juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

(10) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second time for an increase under this subdivision if the township wants

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to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

(11) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-6-6-14 during the preceding three (3) calendar years. A township may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three (3) years. A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.

(12) Permission to a city having a population of more than twenty-nine thousand (29,000) but less than thirty-one thousand (31,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) an appeal was granted to the city under this section to reallocate property tax replacement credits under IC 6-3.5-1.1 in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned under this section to have reallocated in 2001 for a purpose other than property tax relief.

SECTION 2. IC 33-28-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The jury commissioners shall immediately, from the names of legal voters and citizens of the United States on the latest tax duplicate and the tax schedules of the county, lists approved by the supreme court that may be used to select prospective jurors, examine for the purpose of determining the sex, age, and identity of prospective jurors, and proceed to select and deposit, in a box furnished by the clerk for that purpose, the names, written on separate slips of paper of uniform

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1 shape, size, and color, of twice as many persons as will be required by  
 2 law for grand and petit jurors in the courts of the county, for all the  
 3 terms of the courts, to begin with the following calendar year.

4 (b) Each selection shall be made as nearly as possible in proportion  
 5 to the population of each county commissioner's district. In making the  
 6 selections, the jury commissioners shall in all things observe their  
 7 oaths. The jury commissioners shall not select the name of any person  
 8 who is to them known to be interested in or has case pending that may  
 9 be tried by a jury to be drawn from the names so selected.

10 (c) The jury commissioners shall deliver the locked box to the clerk  
 11 of the circuit court, after having deposited into the box the names as  
 12 directed under this section. The key shall be retained by one (1) of the  
 13 jury commissioners, who may not be an adherent of the same political  
 14 party as the clerk.

15 (d) In a county containing a consolidated city, the jury  
 16 commissioners may, upon an order made by the judge of the circuit  
 17 court and entered in the records of the circuit court of the county, make  
 18 the selections and deposits required under this section monthly instead  
 19 of annually. The jury commissioners may omit the personal  
 20 examination of prospective jurors ~~the examination of voters lists~~ and  
 21 make selection without reference to county commissioners' districts.  
 22 The judge of the circuit court in a county containing a consolidated city  
 23 may do the following:

24 (1) Appoint a secretary for the jury commissioners, and sufficient  
 25 stenographic aid and clerical help to properly perform the duties  
 26 of the jury commissioners.

27 (2) Fix the salaries of the commissioners, the secretary, and  
 28 stenographic and clerical employees.

29 (3) Provide office quarters and necessary supplies for the jury  
 30 commissioners and their employees.

31 The expenses incurred under this subsection shall be paid for from the  
 32 treasury of the county upon the order of the court.

33 (e) Subject to appropriations made by the county fiscal body, the  
 34 jury commissioners may use a computerized jury selection system.  
 35 However, the system used for the selection system must be fair and  
 36 may not violate the rights of persons with respect to the impartial and  
 37 random selection of prospective jurors. The jurors selected under the  
 38 computerized jury selection system must be eligible for selection under  
 39 this chapter. The commissioners shall deliver the names of the  
 40 individuals selected to the clerk of the circuit court. The commissioners  
 41 shall observe their oath in all activities taken under this subsection.

42 ~~(f) The jury commissioners may supplement voter registration lists~~

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and tax schedules under subsection (a) with names from lists of persons residing in the county that the jury commissioners may designate as necessary to obtain a cross-section of the population of each county commissioner's district. The lists designated by the jury commissioners under this subsection must be used for the selection of jurors throughout the entire county.

(g) The supplemental sources designated under subsection (f) may consist of such lists as those of utility customers; persons filing income tax returns; motor vehicle registrations; city directories; telephone directories; and driver's licenses. These supplemental lists may not be substituted for the voter registration list. The jury commissioners may not draw more names from supplemental sources than are drawn from the voter registration lists and tax schedules.

SECTION 3. IC 33-28-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. As used in this chapter, "master list" means:

- (1) a serially printed list;
- (2) a magnetic tape;
- (3) an Addressograph file;
- (4) a punched card file;
- (5) a computer record; or
- (6) another form of record determined by the supervising judge to be consistent with this chapter;

that fosters the policy and protects the rights secured by this chapter **and contains all current, up-to-date voter registration lists for each precinct in the county, and is supplemented by names derived from other sources identified under this chapter: the current lists approved by the supreme court that may be used to select prospective jurors.**

SECTION 4. IC 33-28-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The jury commissioner shall compile and maintain a master list consisting of all the voter registration lists for the county, supplemented with names from other lists of persons resident in the county that the supreme court shall periodically designate as necessary to obtain the broadest cross-section of the county, having determined that use of supplemental lists is feasible. The supreme court may designate supplemental lists for use by the courts periodically in a manner that fosters the policy and protects the rights secured by this chapter. Supplemental sources may consist of lists of:

- (1) utility customers;
- (2) property taxpayers; and
- (3) persons filing income tax returns; motor vehicle registrations;

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city directories, telephone directories, and driver's licenses.  
 Supplemental lists may not be substituted for the voter registration list.  
**lists approved by the supreme court that may be used to select  
 prospective jurors.** In drawing names from supplemental lists,  
**compiling the master list,** the jury commissioner shall avoid  
 duplication of names.

(b) A person who has custody, possession, or control of any of the  
 lists making up or used in compiling the master list ~~including those~~  
~~designated under subsection (a) by the supreme court as supplementary~~  
~~sources of names,~~ shall furnish the master list to the jury commissioner  
 for inspection, reproduction, and copying at all reasonable times.

(c) When a copy of a list maintained by a public official is  
 furnished, only the actual cost of the copy may be charged to the courts.

(d) The master list of names is open to the public for examination  
 as a public record. However, the source of names and any information  
 other than the names contained in the source is confidential.

SECTION 5. IC 33-28-6-6 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. As used in this  
 chapter, "master list" means ~~all current, up-to-date voter registration~~  
~~lists for each precinct in the county supplemented with names from~~  
~~other sources prescribed pursuant to this chapter; the current lists~~  
**approved by the supreme court that may be used to select**  
**prospective jurors** in order to foster the policy and protect the rights  
 secured by this chapter. The master list may be in the form of a serially  
 printed list, a magnetic tape, an Addressograph file, punched cards, or  
 such other form considered by the chief judge to be consistent with this  
 chapter.

SECTION 6. IC 33-28-6-13 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The jury  
 commissioner shall compile and maintain a master list consisting of ~~all~~  
~~the voter registration lists for the county; supplemented with names~~  
~~from other lists of persons resident in the county that the supreme court~~  
~~shall periodically designate as necessary to obtain the broadest~~  
~~cross-section of the county; having determined that use of the~~  
~~supplemental lists is feasible. The supreme court shall exercise the~~  
~~authority to designate supplemental lists periodically in order to foster~~  
~~the policy and protect the rights secured by this article. The~~  
~~supplemental sources may include lists of utility customers, property~~  
~~taxpayers, and persons filing income tax returns, motor vehicle~~  
~~registrations, city directories, telephone directories, and driver's~~  
~~licenses. Supplemental lists may not be substituted for the voter~~  
~~registration list.~~ **lists approved by the supreme court that may be**

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1 used to select prospective jurors. In drawing names from  
 2 supplemental lists, **compiling the master list**, the jury commissioner  
 3 shall avoid duplication of names.

4 (b) Whoever has custody, possession, or control of any of the lists  
 5 making up or used in compiling the master list ~~including those~~  
 6 ~~designated under subsection (a) by the supreme court as supplementary~~  
 7 ~~sources of names~~, shall furnish the list to the jury commissioner for  
 8 inspection, reproduction, and copying at all reasonable times.

9 (c) When a copy of a list maintained by a public official is  
 10 furnished, only the actual cost of the copy may be charged to the court.

11 (d) The master list of names shall be open to the public for  
 12 examination as a public record, except that the source of names and  
 13 any information other than the names contained in that source may not  
 14 be public information.

15 SECTION 7. IC 33-33-36-3 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The Jackson superior  
 17 court has ~~one (1) judge~~ **two (2) judges** who shall hold sessions in  
 18 Seymour.

19 SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE  
 20 JULY 1, 2006]: IC 33-28-5-8; IC 33-28-6-8.

21 SECTION 9. [EFFECTIVE JULY 1, 2006] (a) **Notwithstanding**  
 22 **IC 33-33-36-3, as amended by this act, the Jackson superior court**  
 23 **is not expanded to two (2) judges until January 1, 2007.**

24 (b) The governor shall appoint a person under IC 3-13-6-1(f) to  
 25 serve as the initial judge added to the Jackson superior court by  
 26 IC 33-33-36-3, as amended by this act.

27 (c) The term of the initial judge appointed under subsection (b)  
 28 begins January 1, 2007, and ends December 31, 2008.

29 (d) The initial election of the judge of the Jackson superior court  
 30 added by IC 33-33-36-3, as amended by this act, is the general  
 31 election on November 4, 2008. The term of the initially elected  
 32 judge begins January 1, 2009.

33 (e) This SECTION expires January 2, 2009.

34 SECTION 10. [EFFECTIVE UPON PASSAGE] IC 6-1.1-18.5-13,  
 35 as amended by this act, applies only to ad valorem property taxes  
 36 first due and payable after December 31, 2006.

37 SECTION 11. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1156, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 11, delete lines 15 through 27.

Page 11, delete lines 32 through 42.

Page 12, delete line 1.

Page 12, delete lines 4 through 30.

Page 13, delete lines 2 through 35.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1156 as introduced.)

ULMER, Chair

Committee Vote: yeas 9, nays 0.

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